

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. WRU-03-68-272
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ORDER GRANTING WAIVER

(Issued December 15, 2003)

On November 21, 2003, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a request for a waiver of 199 IAC 32, regarding the proposed sale and transfer of Qwest Wireless, LLC (Qwest Wireless), to Qwest's parent corporation, Qwest Services Corporation (QSC), pursuant to Iowa Code §§ 476.76 and 476.77 (2003). The request has been identified as Docket No. WRU-03-68-272.

In support of its request, Qwest states that Qwest Wireless is a wholly-owned subsidiary of Qwest and QSC is the immediate parent corporation of Qwest. Qwest states that it has decided to declare a dividend of its entire ownership (one share) of Qwest Wireless to QSC. Qwest Wireless has minimal facilities in Iowa and provides wireless service to only a few customers located in Council Bluffs, Iowa.

Qwest further states that Board approval of the asset sale is unnecessary as the transfer would have no impact on local exchange telecommunications services as Qwest is a wireline carrier and does not have any wireless customers. Qwest states that Qwest Wireless is a separate and independent carrier with separate financial reporting. Qwest also states that the value of the total property, plant, and equipment to be transferred is in excess of \$100 million with less than \$1 million in assets

located in Iowa. Qwest states that the Qwest Wireless customers in Council Bluffs would still receive their wireless service from Qwest Wireless after the transfer.

Iowa Code §§ 476.76 and 476.77 and 199 IAC 32 require public utility reorganizations to be submitted to the Board for review or approval. Iowa Code § 476.76 defines a reorganization to include the acquisition, sale, lease, or any other disposition, directly or indirectly, including merger or consolidation, of the whole or any substantial part of a public utility's assets. Iowa Code § 476.77 provides that the Board may adopt rules which exempt a public utility from the filing requirements of that section if the Board finds review is not necessary in the public interest. The Board promulgated rules regarding reorganizations, including waivers or exemptions in 199 IAC 32. The standards for review of a request for a waiver in § 476.77 indicate the important question is the effect of the acquisition or sale on the utility's ratepayers and the public interest. The Board stated when adopting an amendment to chapter 32 that waivers will be liberally granted where the proposed reorganization has minimal or no impact on Iowa ratepayers. "Order Adopting Rules," In re: Disposal of a Public Utility's Assets, Docket No. RMU-91-2 (April 24, 1992).

To grant the waiver, the Board must also find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 32 should be granted based on the Board's review of the information provided by Qwest in its pleading. The Board finds it will be an undue hardship for Qwest to meet the filing requirements of 199 IAC 32 for this transaction since the proposed corporate restructuring will have no impact on Qwest's local exchange customers and the operations of both Qwest and Qwest Wireless will be unaffected.

The Board also finds that the waiver will not affect the substantial legal rights of any person and that Iowa Code § 476.77 specifically allows for the waiver of the Board's rules. Additionally, the Board finds that substantially equal protection of the public health, safety, and welfare will be afforded since the sale will not affect Qwest's Iowa local exchange service customers.

IT IS THEREFORE ORDERED:

The waiver request filed by Qwest Corporation on November 21, 2003, is granted. The application of 199 IAC 32.8 to the sale and transfer of Qwest Wireless, LLC, to Qwest Services Corporation is waived.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 15th day of December, 2003.